

RICHARD A. LEASIA, Bar No. 73397
rleasia@littler.com
KARIN M. COGBILL, Bar No. 244606
kcogbill@littler.com
LITTLER MENDELSON
A Professional Corporation
50 W. San Fernando, 15th Floor
San Jose, CA 95113.2303
Telephone: 408.998.4150
Facsimile: 408.288.5686

Attorneys for Defendant
CENTRAL CONCRETE SUPPLY CO., INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

OPERATING ENGINEERS LOCAL
UNION NO. 3,

Plaintiff,

v.

CENTRAL CONCRETE SUPPLY CO.,
INC.,

Defendant.

Case No. C09-04153 MHP

**STIPULATION AND ~~PROPOSED~~
ORDER MODIFYING ADR DEADLINE**

Pursuant to Local ADR Rule 6-5 and Local Rule 7-12, Plaintiff OPERATING ENGINEERS LOCAL UNION NO. 3 and Defendant CENTRAL CONCRETE SUPPLY CO., INC., (collectively, the "Parties"), submit this Stipulation and Proposed Order to the Court:

STIPULATION

WHEREAS, on December 2, 2009, the Court issued an Order Selecting ADR Process in the above-entitled action ("Order"); and

WHEREAS, the Court's Order approved the stipulation between the Parties to participate in Mediation (ADR L.R. 6), and set a deadline for the Parties to hold the ADR session within 120 days from the date of the order, or April 1, 2010; and

1 WHEREAS, the Parties were assigned to Mediator Jean C. Gaskill and conducted an
2 initial telephone conference to discuss the mediation and scheduling on January 15, 2010; and

3 WHEREAS, the Parties agreed to conduct the Mediation on March 18, 2010; and

4 WHEREAS, on or about September 23, 2009, Defendant filed an unfair labor practice
5 charge with the National Labor Relations Board alleging that Plaintiff was violating the provisions
6 of Section 8(b)(4)(D) of the National Labor Relations Act, 29 U.S.C. §158(b)(4)(D); on October 23,
7 2009, the NLRB commenced a hearing on Defendant's charge under the provisions of Section 10(k)
8 of the Act, 29 U.S.C. §160(k); and on November 30, 2009 the parties filed post-hearing briefs; and

9 WHEREAS, in March 2010, the Parties requested that the ADR deadline be
10 continued to June 30, 2010 to allow the Board time to issue a decision with respect to Defendant's
11 charge, which decision the Parties agreed may resolve some or all of the issues underlying this
12 matter, and make its settlement or resolution more likely; and

13 WHEREAS, on March 23, 2010 the Court approved the Parties' stipulation and
14 continued the deadline to complete ADR to June 30, 2010; and

15 WHEREAS, the Parties agreed to conduct the Mediation on June 14, 2010; and

16 WHEREAS, the Board has not yet issued a decision with respect to Defendant's
17 charge, and it is uncertain at this time when said decision will issue; and

18 WHEREAS, the Parties continue to believe that the Board's decision will have an
19 effect on the merits of the instant action, and may resolve certain issues in the present matter, and
20 therefore believe that it would be beneficial for settlement purposes if the Parties wait to attend
21 mediation until the Board renders its decision; and

22 WHEREAS, for good cause, to promote resolution of this matter and ensure a more
23 productive Mediation of this matter, and to avoid the possibility of duplicative and inconsistent
24 proceedings, the Parties jointly request an extension to participate in Mediation until 60 days after
25 the Board issues a decision with respect to Defendant's charge;

26 NOW, THEREFORE, Plaintiffs and Defendant, through their respective undersigned
27 counsel, stipulate and request that the Court approve a revised deadline for the Parties to comply
28 with its Order, and direct that they participate in and complete the directed ADR proceedings within

60 days after the Board serves its decision with respect to Defendant's charge. Defendant shall notify the Court and the ADR Unit once a decision has been rendered by the Board and will coordinate with Plaintiff's counsel and Mediator Gaskill to schedule Mediation.

IT IS SO STIPULATED.

Dated: May 27, 2010

/s/Richard A. Leasia
RICHARD A. LEASIA
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
CENTRAL CONCRETE SUPPLY CO., INC.

Dated: May 31, 2010

/s/Michael D. Nelson
MICHAEL D. NELSON
LAW OFFICES OF MICHAEL D. NELSON
Attorneys for Plaintiff
OPERATING ENGINEERS LOCAL UNION
NO. 3

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: 6/3/2010

